

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



Applicants: David R. Fischell, et al. : Attention:
Serial No: 10/642,245 : Patent Petitions
Filed: 18 August 2003 : Division
Title: SYSTEM FOR THE DETECTION :
OF CARDIAC EVENTS

PETITION FOR ACCEPTANCE OF LATE CLAIMING OF PRIORITY
UNDER 37 C.F.R. § 1.78(a)(3)

Mail Stop – Petitions
Honorable Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants, by the undersigned Attorney hereby Petition for the acceptance of late claiming of priority of the above-referenced Patent Application as being a Continuation-In-Part Application of Serial Number 10/251,505 filed on 20 September 2002 and now issued as U.S. Patent 6,609,023.

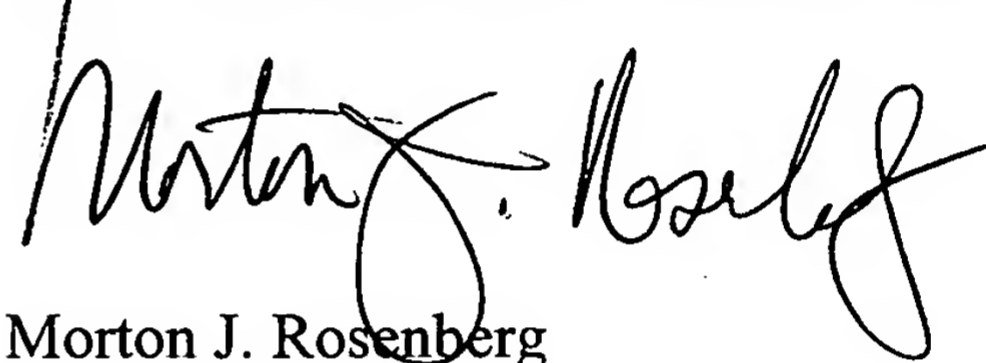
Attached to this Petition is a Declaration of Robert E. Fischell, who was appointed with the Power of Attorney at the time of the filing of the above-referenced Patent Application indicating the facts associated with the mistake in not properly claiming priority.

Further attached to this Petition is a Substitute Declaration for Patent Application which properly claims priority on Serial Number 10/251,505 now issued as U.S. Patent 6,609,023.

Further, attached is a check in the amount of \$1,410.00 in payment of the Petition fee under 37 C.F.R. §1.17(t). In the event there are any further fees associated with the filing of this Petition, the Honorable Director of Patents and Trademarks is hereby authorized to charge Deposit Account #18-2011 for such charges.

It is respectfully requested that this Petition be granted.

Respectfully submitted,
For: ROSENBERG, KLEIN & LEE

A handwritten signature in black ink, appearing to read "Morton J. Rosenberg", written over a horizontal line.

Morton J. Rosenberg
Registration #26,049

Dated: 9/12/2008

Suite 101
3458 Ellicott Center Drive
Ellicott City, MD 21043
(410) 465-6678
Customer No. 04586



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: David R. Fischell, et al. : Attention:
Serial No: 10/642,245 : Patent Petitions
Filed: 18 August 2003 : Division
Title: SYSTEM FOR THE DETECTION :
OF CARDIAC EVENTS

DECLARATION OF ROBERT E. FISCHELL

Mail Stop – DAC
Honorable Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

I, Robert E. Fischell hereby declare as follows:

1. That I am a co-Inventor of the above-referenced Patent Application and was appointed the Power of Attorney at the time that the Application was filed on August 18, 2003;
2. That although I have prepared and have issued in my name approximately 100 U.S. Patents, I am not a Patent Attorney;
3. That I prepared the original Declaration, Power of Attorney and Petition filed in the subject Application and inadvertently did not include the fact in the "Declaration, Power of Attorney and Petition" that this Application was in fact a Continuation-In-Part of Serial Number 10/251,505 filed on 20 September 2002 and now issued as U.S. Patent 6,609,023;

4. That I did include on the first page of the Specification of the subject Application that "This Patent Application is a Continuation-In-Part of Serial Number 10/251,505 filed on September 30, 2002 now U.S. Patent 6,609,023" (although I made a mistake in the Filing Date) and I believed that this was sufficient for the claiming of the priority of Serial Number 10/251,505;

5. That the entire delay between the date that the claim was due and the date that this claim is being filed was unintentional;

6. That a Substitute Declaration properly claiming the priority is being filed with a Petition being filed by our Attorney, Morton J. Rosenberg of the Firm of Rosenberg, Klein & Lee having a business address at 3458 Ellicott Center Drive, Suite 101, Ellicott City, MD 21043.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the Application or any Patent issued thereon.

July 16, 2008
Date

Robert E Fischell
Robert E Fischell

SUBSTITUTE DECLARATION FOR PATENT APPLICATION

Docket Number (Optional)
MR3065-19

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled SYSTEM FOR THE DETECTION OF CARDIAC EVENTS, the specification of which is attached hereto unless the following box is checked:

☒ was filed on 8/18/2003 as United States Application Number or PCT International Application Number 10/642,245 and was amended on 3/28/2008 (if applicable).

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR §1.56.

I hereby claim foreign priority benefits under 35 U.S.C. § 119(a)-(d) or § 365(b) of any foreign application(s) for patent or inventor's certificate, or § 365(a) of any PCT International application which designated at least one country other than the United States, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or PCT International application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application(s)

Priority Not Claimed

(Number) (Country) (Day/Month/Year Filed)

(Number) (Country) (Day/Month/Year Filed)

I hereby claim the benefit under 35 U.S.C. § 119(e) of any United States provisional application(s) listed below.

(Application Number) (Filing Date)

(Application Number) (Filing Date)

I hereby claim the benefit under 35 U.S.C. § 120 of any United States application(s), or § 365(c) of any PCT International application designating the United States, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of 35 U.S.C. § 112.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR § 1.56 which became available between the filing date of the prior application and the national or PCT International filing date of this application.

10/251,505 20 September 2002 Patented
(Application Number) (Filing Date) (Status-patented, pending, abandoned)

(Application Number) (Filing Date) (Status-patented, pending, abandoned)

I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith: MORTON J. ROSENBERG, ESQ., REG. # 26,049;

Address all telephone calls to
Address all correspondence to

DAVID I. KLEIN, ESQ., REG. # 33,253; JUN Y. LEE, ESQ., REG. # 40,262
MORTON J. ROSENBERG at telephone number 410-465-6678
ROSENBERG, KLEIN & LEE
3458 ELLICOTT CENTER DRIVE-SUITE 101
ELLICOTT CITY, MD 21043
FAX #: 410-461-3067
E-MAIL ADDRESS: rkl@rklpatlaw.com

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of sole or first inventor (given name, family name) David R. Fischell (Fischell is family name)

Inventor's signature [Signature] Date 8/29/08

Citizenship USA

Mailing Address 71 Riverlawn Drive
Fair Haven, NJ 07704


Full name of second joint inventor, if any (given name, family name) Tim A. Fischell (Fischell is family name)

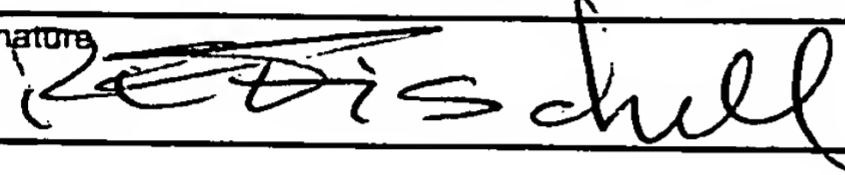
Second Inventor's signature [Signature] Date 8/29/08

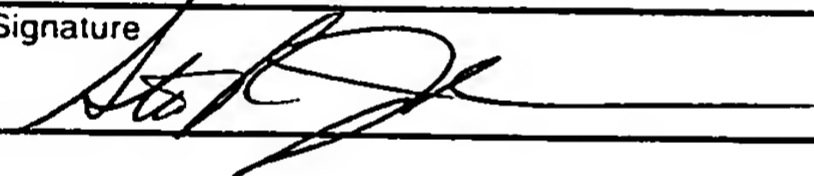
Citizenship USA

Mailing Address 1701 Embury Road
Kalamazoo, MI 49008

☒ Additional Inventors are being named on separately numbered sheets attached hereto.

| | |
|---|---------|
| Third Joint Inventor | |
| Jonathan Harwood (Harwood is family name) | |
| Inventor's Signature | Date |
|  | 8/22/08 |
| Citizenship | |
| USA | |
| Mailing Address | |
| 8 Post Road | |
| Rumson, NJ 07762 | |

| | |
|---|---------------|
| Fourth Joint Inventor | |
| Robert E. Fischell (Fischell is family name) | |
| Inventor's Signature | Date |
|  | July 16, 2008 |
| Citizenship | |
| USA | |
| Mailing Address | |
| 14600 Viburnum Drive | |
| Dayton, MD 21036 | |

| | |
|---|---------|
| Fifth Joint Inventor | |
| Steven R. Johnson (Johnson is family name) | |
| Inventor's Signature | Date |
|  | 8/28/08 |
| Citizenship | |
| USA | |
| Mailing Address | |
| 21 Schwenker Place | |
| Fairhaven, NJ 07704 | |

| | |
|----------------------|------|
| Sixth Joint Inventor | |
| | |
| Inventor's Signature | Date |
| | |
| Citizenship | |
| | |
| Mailing Address | |
| | |
| | |